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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Manhee JO, et al.

SERIAL NO: 10/689,702

GROUP: 2661

FILED: October 22, 2003

EXAMINER: D. A. SAMUEL

FOR: ROUTING CONTROL SYSTEM, ROUTING CONTROL DEVICE, AND
ROUTING CONTROL METHOD

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is an Extended European Search Report for the Examiner's consideration. The reference(s) cited therein have been previously filed on March 18, 2004.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Registration No. 40,073

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/06)

Joseph Scafetta, Jr.
Registration No. 26,803



European Patent Office
Postbus 5818
2280 HV RIJSWIJK
NETHERLANDS
Tel.: +31 70 340 2040
Fax: +31 70 340 3016

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GROSSE BOCKHORN SCHUMACHER
Patent- und Rechtsanwälte
Elsenheimerstrasse 49
80687 München
ALLEMAGNE

EPO Customer Services

Tel.: +31 (0)70 340 45 00

Date
23.07.07

Reference E 87046 EP (BO/	Application No./Patent No. 07012303.9 - 1249
Applicant/Proprietor NTT DoCoMo, Inc.	

Communication

The extended European search report is enclosed.

The extended European search report includes, pursuant to Rule 44a EPC, the European search report (R. 44 EPC) or the partial European search report/ declaration of no search (R. 45 EPC) and the European search opinion.

Copies of documents cited in the European search report are attached.

☒ 1 additional set(s) of copies of such documents is (are) enclosed as well.

The following have been approved:

☒ Abstract ☒ Title

☐ the Abstract was modified and the definitive text is attached to this communication.

The following figure will be published together with the abstract: 1

Refund of the search fee

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.





European Patent
Office

EUROPEAN SEARCH REPORT

Application Number
EP 07 01 2303

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X *	EP 0 753 952 A (IBM) 15 January 1997 (1997-01-15) * abstract * * column 1, line 26 - line 40 * * column 2, line 21 - column 3, line 22 * * column 4, line 24 - column 6, line 35 * * column 8, line 25 - column 11, line 19 * -----	1-6	INV. H04L12/56
X *	US 5 381 403 A (YONGYU TH ARMS ET AL) 10 January 1995 (1995-01-10) * abstract * * column 2, line 15 - line 34 * * column 3, line 4 - column 6, line 16; claims 1,3,7 *	1,5,6	
A *	US 2002/027887 A1 (MORIYA HITOSHI) 7 March 2002 (2002-03-07) * paragraph [0013] - paragraph [0026] * * paragraph [0047] - paragraph [0082] *	1-6	
A *	US 6 442 615 B1 (TJAEDER JOHAN ET AL) 27 August 2002 (2002-08-27) * column 5, line 5 - column 6, line 55 * * column 11, line 13 - line 21; claims 1,3,7 *	1-6	TECHNICAL FIELDS SEARCHED (IPC) H04L
* = Filed May 18, 2004			
The present search report has been drawn up for all claims			
Place of search The Hague		Date of completion of the search 12 July 2007	Examiner Ciurel, Cristian
CATEGORY OF CITED DOCUMENTS X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure I : intermediate document		T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons * : member of the same patent family, corresponding document	

ANNEX TO THE EUROPEAN SEARCH REPORT
ON EUROPEAN PATENT APPLICATION NO.

EP 07 01 2303

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

12-07-2007

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 0753952	A	15-01-1997	DE 69629984 D1	23-10-2003
			DE 69629984 T2	15-07-2004
			JP 3388512 B2	24-03-2003
			JP 9036910 A	07-02-1997
			US 6801534 B1	05-10-2004
			US 5987521 A	16-11-1999
US 5381403	A	10-01-1995	NONE	
US 2002027887	A1	07-03-2002	AU 779296 B2	13-01-2005
			AU 6564101 A	07-03-2002
			JP 3479834 B2	15-12-2003
			JP 2002077194 A	15-03-2002
US 6442615	B1	27-08-2002	AU 1231499 A	17-05-1999
			DE 19746904 A1	27-05-1999
			WO 9922492 A1	06-05-1999



The examination is being carried out on the **following application documents**:

Description, Pages

1-19 as originally filed

Claims, Numbers

1-6 as originally filed

Drawings, Sheets

1/9-9/9 as originally filed

The following documents are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: EP-A-0 753 952 (IBM) 15 January 1997 (1997-01-15)

D2: US-A-5 381 403 (YONGYUTH ARMS ET AL) 10 January 1995 (1995-01-10)

- 1 The present application does not meet the requirements of **Article 52(1) EPC**, because the subject-matter of **claims 1-6** is **not new** in the sense of Article 54(1) and (2) EPC.
- 2 The **document D1** discloses (the references in parentheses applying to this document), in terms of claim 1:
A routing control system (see column 2, lines 17-32), comprising



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Application No.: 07 012 303.9
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- (a) a plurality of transfer devices for transferring packets on a network (column 1, lines 29-31 and column 6, lines 6-22), and
- (b) a control device for controlling a transfer route of said packets (column 3,

lines 16-22 and column 5, lines 26-32)

wherein said plurality of transfer devices comprise:

- (c) generation means for generating a temporary routing control information of said packets (column 2, lines 37-51); and
- (d) transmission means for transmitting the temporary routing control information generated by said generation means to said control device (column 4, lines 49-57),

and said control device comprises:

- (e) reception means for receiving the plurality of temporary routing control information transmitted by the transmission means of said plurality of transfer devices (column 5, lines 26-29); and
- (f) control means for controlling the transfer route of said packets by using the plurality of temporary routing control information received by said reception means (column 7, lines 33-40 and column 9, lines 4-15).

Since all features of claim 1 are known in combination from document D1, the subject-matter of claim 1 is not new in the sense of Article 54(1) and (2) EPC. Therefore, claim 1 is not allowable (Article 52(1) EPC).

The applicant's attention is drawn to the fact that the lack of novelty of subject-matter of claim 1 may as well be demonstrated along the disclosure of **document D2** (column 2, line 15 to column 4, line 17).

- 2.1 The independent claim 6 defines the same features as in system claim 1 but in terms of a method. The reasons outlined with respect to claim 1 also apply to claim 6 and therefore, the subject-matter of **claim 6 is not new** (Article 54(1) and (2) EPC).
- 2.2 Claim 5 is a representation of claim 1 covering essentially the same subject-matter with different terminology and does not contain any teaching going beyond the teaching of claim 1. Therefore, the above-mentioned arguments with respect to



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Notification/Procès-verbal (Annexe)

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Application No.: 07 012 303.9
Demande n°:

novelty also apply to claim 5. Therefore, the subject-matter of **claim 5** is also **not new** (Article 54(1) and (2) EPC).

3 None of the dependent claims 2-4 contain additional-features that would lead to patentable subject-matter.

3.1 The additional-features of claims 2 and 3 are disclosed in document D1 (column 10, lines 4-17 and column 9, lines 35-44). Therefore, the subject-matter of claims 2 and 3 is not new (Article 54(1) and (2) EPC).

3.2 The additional-features of claim 4 are disclosed in document D2 (column 4, lines 18-32). As it was mentioned in paragraph 3, document D2 discloses all the features of the independent claim 1. Therefore, the subject-matter of claim 4 is not new over document D2 (Article 54(1) and (2) EPC).

4 It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 29(1) EPC, in which the features known from document D1 are put into the preamble. The applicant should also indicate in the letter of reply the difference of the subject-matter of the new claim vis-à-vis the state of the art (in particular documents D1 and D2) and the significance thereof.

5 Furthermore, the following requirements should be taken into consideration by the Applicant:

5.1 The present divisional application has been filed together with the **parent application EP 03024466**, on 23.10.2002, containing same description and having claims of substantially identical scope.

Since the EPC does not deal explicitly with the case of co-pending European applications of the same effective date, it is however permissible to allow an applicant to proceed with two applications having the same description where the claims are quite distinct in scope and directed to different inventions.

However, this is not the case with the present application, since it seems that **the**



difference between the claimed subject-matter of the two applications is not clearly distinguishable, nor does it claim its own subject-matter in combination with that of the parent application (see also the Guidelines, C IV, 6.4 "Double patenting" and C VI, 9.1.6 "Divisional applications: Claims").

The Applicant is therefore requested to amend the application in such a manner that it no longer claims the same invention and by distinguishing the claimed subject-matter with that of the parent application EP 03024466.

- 5.2 All claims are not in the **two-part form** in accordance with Rule 29(1) EPC, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 29(1)(a) EPC) and with the remaining features being included in the characterising part (Rule 29(1)(b) EPC).
All claims should therefore be redrafted accordingly. If, however, the applicant is of the opinion that the two-part form would be inappropriate, then reasons therefor should be provided in the letter of reply. In addition, the applicant should ensure that it is clear from the description which features of the subject-matter of claims are already known in combination from the document D1 (see the Guidelines, C-III, 2.3b).
- 5.3 The features of all claims should be provided with **reference signs** placed in parentheses to increase the intelligibility of the claims (Rule 29(7) EPC). This applies to both the preamble and characterising portion (see the Guidelines, C-III, 4.11).
- 5.4 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims (Rule 27(1)(c) EPC).
- 5.5 To meet the requirements of Rule 27(1)(b) EPC, the **documents D1 and D2** should be identified in the description and the relevant background art disclosed therein should be briefly discussed.
- 5.6 The statement in the description on page 19, line 28 implies that the subject-matter for which protection is sought may be different from that defined by the claims, thereby resulting in lack of clarity of the claims (**Article 84 EPC**) when used to interpret them (Guidelines C-III 4.3a). The words "**spirit and**" therefore have to be



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 Application No.: 07 012 303.9
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deleted.

- 5.7 Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, **not to add subject-matter** which extends beyond the content of the application as originally filed (**Article 123(2) EPC**).
In this respect, amendments should be based on the original terminology.

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based.

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

- 5.8 Amendments should be made by filing replacement pages for only those pages which have been amended. Unnecessary recasting of the description should be avoided. An amended abstract is not required. The applicant should also take account of the requirements of **Rule 36(1) EPC**. If handwritten amendments are submitted, they should be clearly legible for the printer. *According to the decision of the President of the EPO under Rule 35(2) EPC (OJ EPO 12/2001, 563) one set of the amended documents of the European patent application shall be provided.*